

TITLE 21 LEGISLATIVE AGENCIES

CHAPTER 2

STATE ETHICS COMMISSION FILING OF DOCUMENTS,
SERVICE, WITNESS AND SUBPOENAS

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Historical Note: This chapter is based substantially upon rule 2 of the State of Hawaii Ethics Commission Rules and Regulations. [Eff. 1/7/74 and 11/11/78; R _____]

§21-2-1 Filing of Documents. (a) All disclosures, charges, requests for opinions, pleadings, submittals, reports, petitions, briefs, memoranda, and other papers required to be filed with the commission in any proceeding shall be filed with the executive director. Such papers may be sent by mail to the post office box of the commission or mailed or hand-carried to the commission offices in Honolulu within the time limit, if any, for such filing. The date on which the papers are actually received by the commission shall be deemed to be the date of filing.

(b) All papers filed with the commission shall be plainly legible.

(c) All papers shall be signed in ink by the person signing the same or the person's duly authorized agent or attorney. The signature of the person signing the document constitutes a certification that the person has read the document; that to the best of the person's knowledge, information, and belief, every statement contained in the instrument is true and no such statements are misleading; and that it is not interposed for delay.

(d) Only an original of all papers shall be filed with the commission, except that an original and six copies of all pleadings and memoranda submitted for

hearing purposes shall be filed with the commission.

(e) The initial document filed by any person in any proceeding shall state on the first page thereof the name, mailing address, and telephone number of the person or persons who may be served with any documents filed in the proceeding. [Eff.] (Auth: HRS §84-31(a)(5)) (Imp: HRS §84-31)

§21-2-2 Computation of time. In computing any period of time prescribed or allowed either by these rules or by order of the commission, or by any applicable statute, the day of the act, event, or default after which the designated period of time is to run, is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday or legal holiday in the State of Hawaii, in which event the period runs until the next day which is neither a Saturday, Sunday nor a holiday. [Eff.] (Auth: HRS §84-31(a)(5)) (Imp: HRS §84-31)

§21-2-3 Continuances or extensions of time. With the exception of the requirements of §84-17, HRS, and Chapter 3, whenever a person or agency has a right or is required to take action within the period prescribed or allowed by these rules, or by order of the commission, the person or agency may apply to a member of the commission for an extension not to exceed fifteen days. Additional extensions or extensions exceeding fifteen days will be ordered only upon motion and notice for good cause shown. The commission will not accept late documents, nor will it recognize action not performed within the prescribed time without good cause shown. [Eff.] (Auth: HRS §84-31(a)(5)) (Imp: HRS §84-31)

§21-2-4 Service of process. (a) The commission shall cause to be served all orders, notices, and other papers issued by it, together with any other papers which it is required by law to serve. Pleadings and memoranda relating to charges or hearings shall be served by the party filing them.

(b) All papers served by either the commission or any party shall be served upon all counsels of record at the time of such filing and upon parties not represented by counsel or upon their agents designated

by them or by law. Any counsel entering an appearance subsequent to the initiation of the proceedings shall notify all parties of that fact.

(c) The final opinion, decision, or any other paper required to be served by the commission upon a party shall be served upon the party's counsel of record, if any, or the party or an agent designated by the party or by law to receive service of such papers.

(d) The service of charge and further statement of charge of alleged violation shall be made personally upon the respondent or, in case the respondent cannot be found, by leaving copies thereof at the respondent's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy to an agent designated by that person or by law to receive service of such papers.

(e) Service of all other papers required to be served shall be made by delivering a copy to counsel of record, if any, or to the person or an agent designated by the person or by law to receive service of such papers or by mailing a copy to the person's last known address. Delivery of a copy within this subsection means handing it to the person's attorney or to the person directly or leaving it at the person's office, with the person's secretary, clerk, or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing. Service by personal delivery or mailing shall be indicated by a certification of time and place of delivery, filed with the commission.

[Eff.] (Auth: HRS §84-31(a)(5) (Imp: HRS §84-31)

§21-2-5 Subpoenas. (a) Subpoenas requiring the attendance of witnesses or the production of documentary evidence from any place within the State of Hawaii at any designated place of hearing may be issued by any member of the commission.

(b) Application for subpoenas shall be made in writing to the commission. The application shall be reasonable in scope and specify as clearly as possible documents or data desired, and show their general relevancy.

(c) For production of documentary evidence or appearance of witnesses at a hearing, application for subpoenas shall be made at least three days prior to the hearing. If application for a subpoena is made at a later time, the commission may, in its discretion, continue the hearing or any part thereof.

(d) Enforcement of obedience to subpoenas issued by the commission and served pursuant to this chapter will be effected by written application of any commissioner to any circuit judge. [Eff.] (Auth: HRS §§84-31(a)(5), 92-16) (Imp: HRS §§84-31, 92-16)

§21-2-6 Witness fees. Witnesses summoned shall be paid the same fees and mileage as are paid to witnesses in courts of the State of Hawaii and shall be paid by the party at whose instance witnesses appear. [Eff.] (Auth: HRS §84-31(a)(5)) (Imp: HRS §§84-31)

§21-2-7 Retention of documents by the commission. All documents filed with or presented to the commission may be retained by the commission. However, the commission may permit the withdrawal of original documents upon submission of properly authenticated copies to replace such documents. [Eff.] (Auth: HRS §84-31(a)(5)) (Imp: HRS §§84-17, 84-31)